

AMENDED IN SENATE MARCH 16, 1998

AMENDED IN SENATE MARCH 9, 1998

SENATE BILL

No. 1480

Introduced by Senator Kopp

February 3, 1998

An act to amend Section 1318 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 1480, as amended, Kopp. Arrest: release on own recognizance.

Existing law provides that the defendant shall not be released from custody under his or her own recognizance until the defendant files with the clerk of the court a signed release agreement which includes specified promises, agreements, and acknowledgments.

This bill would ~~require the release agreement to also contain proof of legal residency in the United States. The bill would also~~ provide that a defendant who has, without good cause, failed to appear in court as ordered 3 or more times over the 3 years preceding the current arrest shall not be released from custody under his or her own recognizance if the defendant is currently on parole or probation, and shall otherwise only be released from custody under his or her own recognizance after prior written notice has been given to the prosecuting attorney and a hearing on the merits of such a release has been held in open court before a judge or

magistrate. By increasing the duties of court personnel, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1318 of the Penal Code is
2 amended to read:

3 1318. (a) The defendant shall not be released from
4 custody under an own recognizance until the defendant
5 files with the clerk of the court or other person authorized
6 to accept bail a signed release agreement which includes:

7 (1) The defendant's promise to appear at all times and
8 places, as ordered by the court or magistrate and as
9 ordered by any court in which, or any magistrate before
10 whom the charge is subsequently pending.

11 (2) The defendant's promise to obey all reasonable
12 conditions imposed by the court or magistrate.

13 (3) The defendant's promise not to depart this state
14 without leave of the court.

15 (4) Agreement by the defendant to waive extradition
16 if the defendant fails to appear as required and is
17 apprehended outside of the State of California.

18 (5) The acknowledgment of the defendant that he or
19 she has been informed of the consequences and penalties
20 applicable to violation of the conditions of release.

21 ~~(6) Proof of legal residency in the United States.~~

1 (b) A defendant who has, without good cause, failed to
2 appear in court as ordered three or more times over the
3 three years preceding the current arrest shall not be
4 released from custody under his or her own recognizance
5 if the defendant is currently on parole or probation, and
6 shall otherwise only be released from custody under his
7 or her own recognizance after prior written notice has
8 been given to the prosecuting attorney and a hearing on
9 the merits of such a release has been held in open court
10 before a judge or magistrate.

11 SEC. 2. Notwithstanding Section 17610 of the
12 Government Code, if the Commission on State Mandates
13 determines that this act contains costs mandated by the
14 state, reimbursement to local agencies and school
15 districts for those costs shall be made pursuant to Part 7
16 (commencing with Section 17500) of Division 4 of Title
17 2 of the Government Code. If the statewide cost of the
18 claim for reimbursement does not exceed one million
19 dollars (\$1,000,000), reimbursement shall be made from
20 the State Mandates Claims Fund.

21 Notwithstanding Section 17580 of the Government
22 Code, unless otherwise specified, the provisions of this act
23 shall become operative on the same date that the act
24 takes effect pursuant to the California Constitution.

